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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/721,150

11/26/2003

Yoshifumi Ishihata

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EXAMINER

PIERCE, DAMON JOSEPH

ART UNIT

PAPER NUMBER

3714

MAIL DATE

DELIVERY MODE

06/03/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/721,150	<b>Applicant(s)</b> ISHIHATA ET AL.	
	<b>Examiner</b> DAMON PIERCE	<b>Art Unit</b> 3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 19 March 2009.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 21, 23, 25, 27 and 29-33 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 21, 23, 25, 27, and 29-33 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### *Response to Amendment*

1. The examiner acknowledges the amendments filed on 3/19/09 of claims 21 and 31. Currently, claims 21, 23, 25, 27, and 29-33 are pending.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
  2. Ascertaining the differences between the prior art and the claims at issue.
  3. Resolving the level of ordinary skill in the pertinent art.
  4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
3. Claims 21, 23, 25, 27, 29-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Pat. # 6,217,446 to Sanbongi et. al (Sanbongi) in view of US Pat. #6,283,861 to Kawai et al (Kawai).

Regarding independent claims 21, and 31, the instant application as best understood is an invention that describes a video game system presenting a plurality of

Art Unit: 3714

characters, where a player controllable character (PCC) can attack enemy game characters based on their distances from the player character at certain moments of time during game play.

In Reference to Claims 21, 31

Sanbongi discloses an electronic device (col. 1, 7, "gaming machines"), and a computer readable storage medium (col. 4, 55, "information storage medium") storing a control program (col. 4, 56, "program") for an action game in which a player character is moved in a game space in response to an operation of a game player and in which one character of a plurality of characters moving in the game space is selected to be an attack target, in response to an operation of the game player (col. 3, 33-52, discloses where a player moves through a virtual space attacking different game characters within a gaming machine),

the control program, when executed by a computer, causes said computer to (col. 4, 55-59, discloses a "program" is executed on "game device"):

set a first distance and a second distance which is above the first distance as a distance of said one character from a predetermined base point and memorize the first distance and the second distance in a memory (Fig. 6, discloses an "attacking zone", 1<sup>st</sup> distance, and "waiting zone", 2<sup>nd</sup> distance above the 1<sup>st</sup> distance, both of which are centered around the player controllable character (PCC), see col. 19-31 for further details of zones, where enemies' (such as "zombies") distances and positions are inherently stored in the game's memory);

memorize, in the memory, respective distances of said plurality of characters from said predetermined base point at a certain moment in time (the video game inherently memorizes all game characters' positions including enemy characters' positions and distances as they move toward the PCC, see col. 6, 3-7, which discloses the "RAM" of the video game that continuously stores and buffer game data);

read, from the memory, the memorized respective distances of said plurality of characters at a present time (see Figs. 1 & 7, where the RAM in communication with the CPU stores and recognizes the location and distances of enemy game characters relative to the PCC each moment of game play);

decide an order of selecting those of said judged plurality of selectable candidate objects based upon their respective distances at said present time (a player selects the order in which he/she wishes to attack enemy characters based the distance and position of each enemy character remaining in the game, for example, a player would intuitively select to kill the zombie closet to the PCC in order to preserve the life and strength of the PCC); and

select, based on the decided selection order, one of said plurality of characters as said attack target and sequentially changing said attack target in response to an attack target changing operation by the game player (again, a player selects the order in which he/she wishes to attack enemy characters based the distance and position of each enemy character remaining in the game).

Kawai discloses judging each of said plurality of characters as to whether or not it is a selectable candidate object based upon a content of said memory by judging whether its memorized respective distance at the certain moment of time is below said first distance and additionally its distance at said present time is below said second distance, and judging whether its distance at said present time is below said first distance (Fig. 3 and abstract, discloses a "shooting range", where each weapon has a particular shooting range, for example, in Fig. 8, enemy character 52A falls within the shooting range of the gun being used by PCC, whereas enemy character 52B does not). The role playing game of Sanbongi would have motivation to use the shooting range feature of Kawai in order to allow a player to correctly judge whether a weapon will be effective to damage an enemy character.

Thus, it would have been obvious to a person of ordinary skill in the art at the time of the invention to combine the video game character features of Sanbongi with the effective ranges of varying weapons of Kawai in order to enhance the reality of the game and making the game more entertaining.

Claims 23, 25, Sanbongi discloses a computer readable storage medium according to claims 21, wherein when at least one of said plurality of characters becomes ineffective as an attack target, the selection order of the selection qualified candidates is re-decided;

wherein the characters are present in the game space and are increased or decreased in accordance with advance of the game in response to operations of the game player (col. 4, 20-26, when “enemy characters” are “dead” they become ineffective which causes characters in the game to decrease, and the game proceeds to new “enemy character”).

Claim 27, Sanbongi discloses a computer readable storage medium according to claims 21, wherein the characters are attack targets of a character operated by the game player (col. 5, 40-43, “input device” is a weapon used by player to attack “enemy characters”).

Claims 29 and 32, Sanbongi discloses an electronic device and a computer readable storage medium according to claims 21 and 31, wherein said predetermined base point is positioned at said player character in said game space; and said respective distances are those in said game space (Fig. 7, where camera in the figure represents the player character which is the base point).

Claims 30 and 33, Sanbongi discloses an electronic device and a computer readable storage medium according to claims 21 and 31, wherein said predetermined base point is a center point of a game display image which said game space is projected to; and said respective distances are those in said game display image (Fig. 7, where camera in the figure represents the player character which is located at the base and center of screen).

***Response to Arguments***

4. Applicant's arguments with respect to claims 21 and 31 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to DAMON PIERCE whose telephone number is (571)270-1997. The examiner can normally be reached on 8AM-4PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dmitry Suhol can be reached on 571-272-4430. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

6. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Dmitry Suhol/



Application/Control Number: 10/721,150  
Art Unit: 3714

Page 8

Supervisory Patent Examiner, Art  
Unit 3714

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